



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee solicits comment on the following proposal by April 1, 2017. Comments may be sent in writing to Samuel R. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

PROPOSED

The Committee proposes amendments to the “stalking” instruction, M Crim JI 17.25, for violations of MCL 750.411h and 750.411i. One amendment adds the presumption found in MCL 750.411h(4) and 750.411i(5) that the victim felt terrorized, frightened, intimidated, threatened, harassed or molested when the defendant has persisted in a course of unconsented contact. The added language is underlined. The fourth and fifth elements were amended to strike the slashes indicating optional alternative language as unnecessary under the statutory language.

[AMENDED] M Crim JI 17.25 Stalking

(1) [The defendant is charged with / You may consider the lesser offense of] stalking. To establish this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant committed two or more willful, separate, and noncontinuous acts of unconsented contact with [*name complainant*].

(3) Second, that the contact would cause a reasonable individual to suffer emotional distress.

(4) Third, that the contact caused [*name complainant*] to suffer emotional distress.

(5) Fourth, that the contact would cause a reasonable individual to feel {terrorized, / frightened, / intimidated, / threatened, / harassed, / or molested}.

(6) Fifth, that the contact caused [*name complainant*] to feel {terrorized, / frightened, / intimidated, / threatened, / harassed, / or molested}.

[*For aggravated stalking, add the following:*]

(7) Sixth, the stalking

[was committed in violation of a court order]

[was committed in violation of a restraining order of which the defendant had actual notice]

[included the defendant making one or more credible threats against *[name complainant]*, a member of (his / her) family, or someone living in (his / her) household]

[was a second or subsequent stalking offense].

[Where appropriate under the evidence, add the following]

(8) You have heard evidence that the defendant continued to make repeated unconsented contact with *[name complainant]* after [he / she] requested the defendant to discontinue that conduct or some different form of unconsented contact, and requested the defendant to refrain from any further unconsented contact. If you believe that evidence, you may, but are not required to, infer that the continued course of conduct caused *[name complainant]* to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Even if you make that inference, remember that the prosecutor still bears the burden of proving all of the elements of the offense beyond a reasonable doubt.